

REMARKS

In the Office Action, Claims 1-6 and 13-16 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,477,647 to Venkatraman et al. Claims 7-12 and 17-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Venkatraman et al. reference in view of U.S. Patent No. 6,615,188 to Breen et al.

Applicant believes that a summary review of the claimed subject matter would be useful at this point. The independent claims relate to an automated method or system for communicating trade orders to a marketplace for financial instruments through an on-line trading account with a financial institution. The method or system includes receiving trade trigger criteria for use by market analysis software. In addition, the market analysis software is configured to electrically receive market data. A trade decision is subsequently generated by the market analysis software in response to the trade trigger criteria being met by changes in the market data, where the market data is independent of the trade decision. Finally, a trade order based on the trade decision is automatically communicated to the marketplace via an on-line trading account.

By this response, Applicant has amended independent Claims 1, 10, and 19 in order to more particularly point out and distinctly claim aspects of Applicant's invention. In this regard, such independent claims have been amended to include the concept that Applicant's invention utilizes market analysis software being operative to analyze the market data and generate a trade decision in response to the trade trigger criteria being met by changes in the market data. The independent claims have further been amended to emphasize that the market data received by the market analysis software is independent of the trade decision.

As a preliminary matter, Applicant respectfully submits that the amended claim language does not introduce any new matter into the case. The amended claim language specifies that the market analysis software analyzes the market data and generates a trade decision in response to the trade trigger criteria being met by changes in the market data, with the market data being independent of the trade decision. The following language taken from the Specification supports the amended claim language.

“[T]he market analysis software is contemplated to respond, to those changes in market data which cause the trade trigger criteria to be met, by outputting a trade decision.” (Specification page 5, paragraph 11)

“[T]he market analysis software 26 is configured to generate a trade decision in response to the trade trigger criteria being met by changes in the market data 27 as representative of condition in the marketplace 17 and/or the trading account 14.” (Specification page 15, paragraph 33)

In addition, the amended claim language indicates market data being independent of the trade decision. The following language from the specification supports such an amendment.

“The market analysis software 26 is configured to generate a trade decision in response to the trade trigger criteria being met by changes in the market data 27 as representative of conditions in the marketplace 17 and/or the trading account 14.” (Specification page 15, paragraph 33).

1. **The Venkatraman et al. Reference Does Not Teach or Suggest Market Analysis Software Being Operative to Analyze the Market Data and Generate a Trade Decision.**

As is discussed in detail below, Applicant respectfully asserts that the Office Action fails to show that market analysis software being operative to analyze the market data and generate a trade decision is taught or suggested by the cited art as required.

In the Office Action, the Examiner states that the market analysis software “can be any software that can perform an analysis of a trade.” (Office Action p. 9) In addition, the Examiner also cites to column 4, lines 37-43 in the Venkatraman et al. reference which discloses an “online confirmation trade system,” as well as column 5, lines 20-41 which disclose an “envelope server” which “distributes an electronic envelope 40 to the customer” as confirmation of the trade.

Applicant respectfully asserts that the market analysis software as stated in the amended claims does not refer to “any software that can perform an analysis of a trade.” Nor is the market analysis software an “online confirmation trade system.” Rather, the market

analysis software as claimed is specialized software configured to analyze market data and generate a trade decision in response to the trade trigger criteria being met by the market data, where the trigger trade criteria are “the particular combinations and/or values of...trade entry and exit criteria.” (Specification page 14, paragraph 32) In other words, the market analysis software is capable of comparing the market data to the trade trigger criteria and generating a trade decision when the trade trigger criteria are met by changes in the market data.

In view of the forgoing, the Examiner is requested to reconsider the applicability of the Venkatraman et al. reference and the stated rejections of independent Claims 1, 10, and 19.

2. **The Venkatraman et al. Reference Does Not Teach or Suggest Market Data Being Independent of the Trade Decision.**

As is discussed in detail below, Applicant respectfully asserts that the Office Action has failed to show that market data being independent of the trade decision is taught or suggested by the cited art as required.

In the Office Action, the Examiner states that “the market data is that shown in Figure 7 which is a trade detail with information about each trade made by the customer.” (Office Action, page 9) Figure 7 of the Venkatraman et al. reference has been reproduced below.

Confirmation Notice

Investment USA **Stock Transaction Confirmation Notice**

JOHN ADAMS
REVOCABLE LIV TR 3/A
DTD 04-18-77
104 CALIFORNIA ST.
SAN FRANCISCO CA 94014-5019

ACCOUNT NO.	CUSIP	CODE	SYMBOL	TRADE DESCRIPTION	
111-111111-1		80397769	AXIS	AXIS IS INC	
ACTIVITY	QUANTITY	PRICE	PRINCIPAL AMOUNT	FEES	S.E.C. FEE
YOU BOUGHT	35 M	195.021	37,837.35		
AS OF TRADE DATE	TRADE DATE	SETTLEMENT DATE	COMMISSION	NET AMOUNT	
1/22/98	2/04/98	2/04/98	\$39.92	37,877.27	

OTHER INFORMATION

UNLESS YOU HAVE ALREADY INSTRUCTED US DIFFERENTLY WE WILL
HOLD THIS SECURITY IN YOUR ACCOUNT
EXECUTED BY PCND

TEST CONFIRMATION NOTICE ONLY

WE CONFIRM THIS TRANSACTION SUBJECT TO THE TERMS AND CONDITIONS
AGREED BETWEEN THE EXECUTING BROKER AND YOU THE CUSTOMER.
LEGEND FOR CUSIP CODES.

POSTX WALL ST

1 of 1

FIG. 7

As can be seen in Figure 7, it appears that the “market data” as interpreted by the Examiner is a description of the trade made by the customer. This description includes the account number, stock symbol, quantity traded, price of the stock, principal amount, trade date, commission and net amount, among others. It does not appear that the market data as shown in Figure 7 was analyzed to generate a trade decision. Rather, the market data appears to be an indication of the market conditions at the time of the trade. Therefore, the market data as shown in Figure 7 does not appear to be independent of the trade decision as required by the amended claims.

Applicant respectfully submits that the amended claims indicate that the market data is independent of the trade decision. The market data is received by the market analysis software, and a trade decision is subsequently generated when the changes in the market data meet the trade trigger criteria.

A chronology of the invention further illustrates that the market data is independent of the trade decision. First, trade trigger criteria and the market data are received for use by the market analysis software. Next, the market analysis software analyzes the market data, and compares it to the trade trigger criteria. Finally, a trade decision is generated in response

Application No.: 09/884,303
Response to Office Action of 05/19/2005
Attorney Docket: GLADS-001A

to the trade trigger criteria being met by changes in the market data. As this chronology illustrates, the market data is independent from the trade decision.

3. **Conclusion**

On the basis of the foregoing, Applicant therefore submits that each basis for rejection and objection has been fully addressed, and therefore the Application is in condition for allowance.

Should the Examiner have any suggestions for expediting allowance of the Application, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 7/15/5

By:

Eric L. Tanezaki

Customer No.: 007663

Eric L. Tanezaki
Registration No. 40,196
STETINA BRUNDA GARRED & BRUCKER
75 Enterprise, Suite 250
Aliso Viejo, California 92656
Telephone: (949) 855-1246
Fax: (949) 855-6371